DISCUSSION

Claims 12, 14 and 15 have been rewritten to overcome Examiner's objections and more particularly define the invention patentably over the prior art. These cancelled claims, together with unchanged claim 13, are the source of new claims 16 through 19 respectively. Additionally, a new independent claim 20 is included that is a combination of independent claim 16 and dependent claim 19.

1. Claim rejections under 35 USC § 112

Claim 12 (new claim 16): Claim 12 was rejected because there was insufficient antecedent basis for use of "the cylinder". Applicant has followed Examiner's suggestion and has replaced reference to "the cylinder" with "the longitudinal element". Detail has been added in the description of the longitudinal axis to make its definition consistent.

Claim 12 (new claim 16): There was confusion in the second paragraph regarding "both of the opposed directions" and also regarding the projection concept described. The new wording more clearly defines the projections considered as being "onto any plane having a normal perpendicular to the longitudinal axis". There are in fact an infinite number of these projections, and the wording makes clear that the projection condition stated applies to each. For each such projection, claim 16 makes clear that the extent of the projected stop element at substantially its one end is at least 1/2 inch in each of the two radially opposed directions measured from the projected longitudinal axis. Each projection of the stop element and longitudinal axis refers to a two-dimensional plane, and there are only the two radially opposed directions that are perpendicular to the projected axis in this plane.

Claim 12 (new claim 16): A change has been made to further restrict the claim and more specifically point out its distinction over MontGuide and SARE. The T-post extender now is specifically restricted to having a "single" stop element. As is clear from the specification and figures, there was never any suggestion to have more than one stop element. There is no functional advantage to have more than one stop element. Disadvantages of more than one stop element are cost and complexity.

Claims 12 and 14 (new claims 16 and 18): The improper parenthetical recitations have

been removed from these claims.

Claim 15 (new claim 19): The phrase "prior art" has been removed to overcome Examiner's objection. Claim 19 makes clear the effect of the wire ties which in combination with the T-post define the interstitial region alongside the upper part of the T-post where a T-post extender is to be inserted thereby forming the high fence support claimed. This distinguishes over any combination of MontGuide and Talt.

No new material has been added to the claims that is not thoroughly discussed in the specification and illustrated by the figures presented with the original application. Specifically, new claims 19 and 20 should be read in view of Fig. 3A and associated descriptive material in the specification.

2. Claim rejections under 35 USC § 103

Claim 12 was rejected under 35 U.S.C. 102(b) as being unpatentable over MontGuide. Claim 16 contains language that more specifically distinguishes the T-post extender from MontGuide. A single stop element attached to the longitudinal element is now specified; whereas MontGuide requires two insulators. One MontGuide insulator would not provide sufficient moment restraint for a reliable attachment of the extender to the T-post.

Each of the MontGuide insulators appears to be symmetric about a horizontal plane through the center of the insulator; hence they could be applied with either end up. The largest extent of the insulator in the vertical direction (MontGuide Fig. 2) appears to be in the form of a clip that fastens to the T-post illustrated. The drilled out part that accepts the longitudinal element of the MontGuide extender appears to occupy no more than half of the vertical extent of the insulator, and this is in the vertical center of the insulator. This is clearly not at substantially one end or the other of the insulator. It is clear from MontGuide Fig. 2, that at substantially either end of the insulator, none of it touches or is near the T-post extender longitudinal element, but rather is used to attach to the T-post. Thus, the MontGuide

insulators clearly do not satisfy the restrictions of the stop element described in claim 16, which, for each of an infinite number of projections, requires that "the stop element at substantially its end in the longitudinal direction nearest the first end of the longitudinal element has a projected profile that extends at least 1/2 inch in each of the two radially opposed directions measured from the projected longitudinal axis". The purpose of this requirement in its intended application is to provide a well defined stop when the T-post extender is inserted into position adjacent the top of a T-post (subject of claims 19 and 20) regardless of the rotational position of the T-post extender about its longitudinal axis.

Claims 13 and 14 (new claims 17 and 18) are rejected under 35 USC § 103(a) as being unpatentable over MontGuide and further in view of SARE. SARE describes a type of movable paddock post consisting of a piece of rebar, a steel washer welded on at 6 inch from one end, a PVC plastic pipe (probably for decoration), another welded on steel washer (presumably as a keeper for the PVC pipe), and a wire brad for holding an insulator to the post. Referencing independent claim 16, dependent claims 17 and 18 have a single welded on washer rather than the two described by SARE. The second washer of SARE, length of PVC pipe, and wire brad are not part of the present invention per claims 16, 17 or 18.

Starting with the SARE paddock post, to come up with a T-post extender in view of MontGuide and SARE as specified by claims 16, 17, and 18, one would need to remove one washer, remove the PVC pipe, and remove the wire brad.

Examiner states "it would have been obvious to one skilled in the fence post art at the time of applicant's invention to modify the arrangement of MontGuide to use a washer welded to a length of rebar as a stop element as taught by SARE to reduce cost". Applicant submits that it would not be obvious to an expert in fence post art to modify MontGuide per SARE even if the MontGuide T-post extender with insulators installed and a SARE paddock post were sitting in front of one so skilled for the following reasons. Note that Examiner in his Office Actions of 11/03/2005 and 02/28/2006 treats a MontGuide insulator as a stop element attached by friction to the longitudinal element of the T-post extender. If the SARE welded on washer is used to replace the MontGuide insulators as a stop element,

then there remains the question of how to attach the T-post extender to a T-post. If the MontGuide drilled out insulators are to be used as an attachment means, then there is no cost advantage because then both welded on washer as well as insulators are required. The unmodified MontGuide T-post extender does not require the welded on washer. If the MontGuide insulators are not to be used, then some other means of attachment to the T-post must be provided. There is nothing in either MontGuide or SARE to suggest another means of attachment. Certainly, nothing in this prior art would have suggested slipping the modified MontGuide arrangement into the top of a T post making use of existing wire ties. Applicant submits, therefore, that the SARE washer modification of the MontGuide rebar would not be an obvious low cost modification of the MontGuide arrangement.

Claim 15 (new claim 19) was rejected under 35 USC § 103(a) as being unpatentable over MontGuide and further in view of Talt.

Examiner states that "regarding claim 11 (per telecon with Applicant 3/14/06, Examiner meant claim15), MontGuide discloses a high fence support comprising a T-post extender in combination with a steel post having substantially a T-shaped cross section, and positioned vertically relative to the T-post in its downward direction by gravity and by the stop element of the T-post extender and that the T-post extender is disposed adjacent the T-post at its upper end". Actually, the vertical positioning of MontGuide's extender is determined by the installer both when he inserts it into the drilled out holes of insulators and held there by friction and when he clips the insulators onto a steel T post. Gravity has nothing to do with it other than to make the friction requirements more severe.

Claims 19 and 20 now describe more clearly the high fence support combination of the T-post extender and T post, as elucidated by the specification and illustrated in Fig. 3A, and distinguish Applicant's invention from either MontGuide or Talt. The position of the MontGuide T-post extender as held by the MontGuide insulators is approximately adjacent the over-bar of the T in cross-sections of the T post but not adjacent the stem of the T. In Applicant's invention, claims 19 and 20 language clearly describe the T-post extender as being in the interstitial spaces formed by the T-post and wire ties where it

is adjacent to both over-bar and stem of T shaped cross-sections of the T post. By placing the T-post extender in this position relative to the T post, existing wire ties can be used to provide lateral restraint, thereby obviating the need for the MontGuide type of attachment insulators or the Talt wire ties which must be applied **after** the Talt bamboo extender is put into place. The stop element of the T-post extender provides a positive vertical positioning mechanism for the extender relative to the T post. This arrangement is simpler, less expensive, much easier to install and not subject to changes over time. On the other hand the Montguide arrangement is subject to the vagaries of friction changes with temperature and other weather conditions.

Examiner argues that "it would be obvious to one of ordinary skill in the fence post art at the time of applicant's invention, to modify the arrangement of MontGuide to use wire ties to secure the T-post extender to the T post as taught by Talt for the purpose of ease of use and durability". A key difference here is that the Talt arrangement teaches wiring the extender to the T-post; thereby applying the wire ties **after** positioning the extender. Applicant's arrangement uses existing wire ties which are in place **before** the extender is positioned.

Talt wires a bamboo extender to a T post, but it is not clear what would be the advantage over MontGuide of wiring the MontGuide extender to the T post. As previously discussed, the location of the MontGuide extender relative to the T post is different from the location of the Talt extender or Applicant's T-post extender. Wiring the MontGuide extender to the T post as per Talt would be awkward and time consuming. Why would an expert in fence building do that? If the MontGuide method works as described, why go to the additional trouble of wiring an extender to a T post. This argument assumes that Examiner's use of "the arrangement of MontGuide" refers to the insulators and rebar together as the extender to be wired on. If it is just the rebar, then the lack of a stop element requires wiring considerations that are even more involved.

Neither Talt nor MontGuide suggested dropping in any type of T-post extender alongside a T post and using existing wire tires for lateral support. With Applicant's invention this process can be

accomplished by walking alongside the T post and dropping in Applicant's extender almost without breaking stride. No additional wiring is required and no additional lateral restraint is required other than what is already there serving, in the case of existing fence, also the function of holding fence wire to the T post. Neither the Talt wire ties nor the MontGuide attachment insulators are necessary with Applicant's invention.

It would not be possible to drop in a Talt bamboo extender because its diameter is clearly too large to fit into the interstitial spaces available between the T post and existing wire ties. If the bamboo extender diameter were sized downward small enough to fit, say 1/2 inch in diameter, its bending strength would not meet the 200 pound-inch requirement of claim 16. Further, there is no stop element provided with the Talt bamboo extender.

There are numerous applications for increasing the height of existing fence or for providing new high fence for the purpose of controlling deer and other wildlife. Nothing in the references or any prior art known to the Applicant competes with the present invention either in its simplicity or cost and installation efficiency. Applicant's invention has been in use successfully now for two years. Not only is the high fence successful in keeping deer out, but it is easily repaired as recently seen when a large tree fell on the fence. Two bent T-post extenders were easily straightened and reused and broken wires spliced.

The references of MontGuide, SARE and Talt are available. If the present invention were obvious to those skilled in fencing art using these prior references either singly or in combination, then because of its importance and economic merit, these skilled artisans would already have placed the invention into service. Yet, even more than two years after filing the application, Applicant still knows of no solution to the high fence problem that is as economical or efficient as the present invention.

SUMMARY

Applicant has carefully studied the reasons for claim rejections under 35 USC § 112 and has

made a diligent effort to reword these claims so that they are acceptable under 35 USC § 112.

Applicant also has carefully studied the reasons for claim rejections under 35 USC § 103 in light of the references identified by Examiner. The new independent claims 16 and 20 and dependent claims 17, 18 and 19 have been written carefully to more clearly restrict and distinguish the subject matter over the references. All detail in the claims is clearly described in the specification and figures as originally submitted.

The claimed material is original, satisfies a long identified need (as indicated by the references MontGuide and Talt) and is economically successful. None of the references either singly or in combination suggest the present invention, nor, for the reasons given above, would it have been obvious to a person skilled in the fence post art at the time of the invention and being fully aware of these references, to pursue the approach described by Applicant.

Respectfully submitted

Friend K. Bechtel
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